

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
ASHLEY NICOLE LEYBA,  
  
Defendant.

No. 2:22-cr-98 WBS

ORDER

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Defendant has moved for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A). (Docket No. 43.) Defendant claims that she was subjected to sexual abuse committed by a prison guard at FCI Dublin during her incarceration at that facility. Defendant also appears to contend that a reduction of sentence is warranted by the conditions at her current facility such as frequent lockdowns and insufficient staffing as well as conditions during her transfers to other facilities.

The court recognizes that pursuant to the Supreme Court's decision in Concepcion v. United States, 142 S. Ct. 2389

1 (2022), it must consider all of a defendant's nonfrivolous  
2 reasons for a reduction. United States v. Carter, 44 F.4th 1227  
3 (9th Cir. 2022). Accordingly, the court considers all of the  
4 arguments raised by defendant in the instant motion.

5 While U.S.S.G. § 1B1.13(b)(4) authorizes a sentence  
6 reduction for victims of sexual abuse committed by correctional  
7 officers, it requires that "the misconduct [] be established by a  
8 conviction in a criminal case, a finding or admission of  
9 liability in a civil case, or a finding in an administrative  
10 proceeding, unless such proceedings are unduly delayed or the  
11 defendant is in imminent danger." The government concedes that  
12 the officer in question was in fact convicted of sexually  
13 assaulting prisoners at FCI Dublin. However, it notes that  
14 defendant provides no evidence that she was a victim of that  
15 officer, as she has not filed an administrative tort claim, she  
16 has not joined any of the civil actions pending in the Northern  
17 District of California, and the officer's conviction documents  
18 make no mention of her as a victim. (Docket No. 49 at 4.)

19 Defendant has not met her burden of showing her  
20 eligibility for a sentence reduction under § 1B1.13(b)(4). There  
21 is no indication that the officer was convicted for conduct  
22 suffered by defendant, as opposed to conduct suffered by other  
23 inmates at FCI Dublin, and defendant has not shown a finding or  
24 admission of liability by the officer of any conduct against this  
25 defendant. Defendant also has not shown any finding in an  
26 administrative proceeding involving defendant, and she does not  
27 claim that any such proceeding was unduly delayed or that she is  
28 in imminent danger.


1           Accordingly, the court will not grant a sentence  
2 reduction under § 1B1.13(b)(4). See, e.g., United States v.  
3 Messina, 11-CR-21 (KAM), 2024 WL 2853119, at \*7 (E.D.N.Y. June 4,  
4 2024) (defendant who brought complaint that was ultimately closed  
5 did not meet the victim-of-abuse standard because, inter alia,  
6 there was no official finding of sexual abuse or serious bodily  
7 injury); United States v. Left Hand, Case No. 1:16-cr-189, 2024  
8 WL 579206, at \*5 (D.N.D. Feb. 13, 2024) (defendant allegedly  
9 sexually assaulted by corrections officer ineligible for sentence  
10 reduction under victim-of-abuse standard because officer had been  
11 indicted but not yet convicted).

12           The court also does not find that the defendant  
13 warrants a sentence reduction based on current conditions at FCI  
14 Aliceville. As an initial matter, defendant's complaints about  
15 the conditions of her confinement such unsanitary conditions,  
16 excessive lockdowns, and insufficient staffing at FCI Aliceville  
17 are more appropriately brought via a suit or petition filed in  
18 the district court where the petitioner is housed. See, e.g.,  
19 Hernandez v. Campbell, 204 F.3d 861, 864 (9th Cir. 2000).  
20 Because defendant is currently housed in Aliceville, Alabama,  
21 such a suit or petition must be brought in the appropriate  
22 federal district court in Alabama.

23           Even assuming the conditions of her current and past  
24 confinement are appropriately addressed in a motion under 18  
25 U.S.C. § 3582(c)(1)(A) brought in this district, the court does  
26 not find that collectively they warrant a sentence reduction at  
27 this time. Accordingly, defendant's request for a sentence  
28 reduction (Docket No. 43) is DENIED.

IT IS SO ORDERED.

Dated: December 4, 2024



WILLIAM B. SHUBB

UNITED STATES DISTRICT JUDGE